Pearson BTEC Level 3 Nationals Certificate/Extended Certificate

January 2022

Paper reference **20168K**

Applied Law

UNIT 1: Dispute Solving in Civil Law

Part A

You do not need any other materials.

Instructions

- **Part A** contains material for the completion of the preparatory work for the Set Task in **Part B**.
- **Part A** is given to learners one week before **Part B** is scheduled. Learners are advised to spend no more than six hours on **Part A**.
- **Part A** must be given to learners on the date specified by Pearson so that learners can prepare in the way specified.
- **Part A** is specific to each series and this material must only be issued to learners who have been entered to take the task in that series.
- **Part B** materials for the Set Task must only be issued to learners on the date specified by Pearson.

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Instructions to Teachers/Tutors

This paper must be read in conjunction with the information on conduct for the task in the unit specification and in the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

This Set Task has a preparatory period. **Part A** sets out how learners should prepare for the completion of the task under supervised conditions.

Learners should undertake independent research on the **Part A** Set Task Information given in this booklet.

Learners are advised to spend no more than six hours undertaking **Part A**.

Centres must issue this booklet at the appropriate time and advise learners of the timetabled sessions during which they can prepare. It is expected that scheduled lessons or other timetabled slots will be used for some or all of the preparation.

Learners may prepare summary notes on the **Part A** Set Task Information. Learners may take up to two A4 sides of notes into the supervised assessment period (**Part B**). Learner notes must only contain details of legal principles and authorities, such as case law and statute law. Learner notes must also comply with the guidelines stated in the Administrative Support Guide for this unit.

Teachers/tutors cannot give any guidance or feedback to learners in the preparation of assessment notes, which must be completed independently by the learner.

The **Part B** supervised assessment will take place in a timetabled slot on a date specified by Pearson.

Refer carefully to the instructions in this booklet and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document to ensure that the preparatory period is conducted correctly so that learners have completed their preparation validly and independently.

Learner notes will be retained securely by the centre after the **Part B** supervised assessment and may be requested by Pearson if there is suspected malpractice.

Instructions for Learners

Read the Set Task Brief and the Set Task Information carefully.

This contains **Part A** of the information you need to prepare for the Set Task in **Part B**. In **Part B** you will be given detailed information. Use this **Part A** booklet to prepare by relating your learning to the specific information given.

You must work independently and must not share your work with other learners.

Your teacher/tutor may give you guidance on when you can complete the preparation.

Your teacher/tutor cannot give you guidance or feedback in the preparation of your assessment notes.

Set Task Brief

You must research the law relating to the extracts in the **Part A** Set Task Information. You need to know about the law of negligence, including damages.

You also need to know about civil dispute resolution, enforcement of civil law and how precedent works.

In **Part B** you will need to apply your research to the new information provided.

Using this **Part A** booklet, you may prepare short notes to refer to when completing the Set Task in **Part B**, for example on specific cases. Your notes may be up to two sides of A4. Your notes must only contain details of legal principles and authorities, such as case law and statute law.

You should spend no more than six hours on this research.

Part A Set Task Information

Hughes v Lord Advocate (1963)

Background: This case involves proof of causation of damage in negligence. The rule is that the claimant's damage must not be too remote. This means that the damage must be reasonably foreseeable. The test is an objective one. So, a defendant is only held responsible for any damage that a reasonable man would have foreseen as a likely consequence of his/her act or omission.

Facts: Some workmen dug a hole in the road. When they left the hole unattended, they covered it with a tent and put paraffin lamps around it as a warning to avoid people falling into it. Two boys aged eight and ten entered the tent taking one of the paraffin lamps with them. The claimant (Hughes) tripped against the lamp and it fell into the hole. The immediate combustion of the paraffin vapour caused an explosion. As a result, Hughes fell into the hole and suffered extensive burns.

Legal point: Hughes sued for his injuries, but the defendants argued that the harm was not reasonably foreseeable and therefore they were not liable.

Decision: The House of Lords disagreed. Leaving paraffin lamps out created a risk of injury by burning. The fact that the claimant's burns came about in an unusual way was not relevant. They thought the distinction between burning and explosion was too fine.

Lord Morris quoted Greer, LJ in *Haynes v Harwood,* who said: '*There can be no doubt […] that the damage was the result of the wrongful act in the sense of being one of the natural and probable consequences of the wrongful act. It is not necessary to show that this particular accident and this particular damage were probable; it is sufficient if the accident is of a class that might well be anticipated as one of the reasonable and probable results of the wrongful act.*'

Principle: The general principle here is that whilst the type of harm must be foreseeable, neither its extent, nor the exact way it came about, need be.

(Adapted from: *Hughes v Lord Advocate* [1963] UKHL 8 (1963): (https://www.bailii.org/uk/cases/UKHL/1963/1963_SC_HL_31.html))

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Supervised hours:
1 hour 30 minutes

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Applied Law

Unit 1: Dispute Solving in Civil Law

Part B

You must have:
Your prepared notes from **Part A** (maximum two A4 sides).

Instructions

- **Part B** contains material for the completion of the Set Task under supervised conditions.
- **Part B** should be undertaken by learners in 1 hour 30 minutes on the date specified by Pearson.
- **Part B** is specific to each series and this material must only be issued to learners who have been entered to undertake the task in that series.
- **Part B** should be kept securely until the start of the supervised assessment period.
- This booklet and your prepared notes should not be returned to Pearson.

Information

- The total mark for this Set Task is 60.

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Instructions to Teachers/Tutors and/or Invigilators

This paper must be read in conjunction with the information on conduct for the task in the unit specification and the *BTEC Nationals Instructions for Conducting External Assessments (ICEA)* document. For further details please see the Pearson website.

The **Part B** Set Task is undertaken under supervision in a single session of 1 hour 30 minutes on the timetabled date.

The **Part B** Set Task requires learners to apply research. Learners should bring in notes as defined in **Part A**. The teacher/tutor and/or invigilator needs to ensure that notes comply with the requirements set out in the Administrative Support Guide for this unit.

Learners will need to complete the activities for the **Part B** Set Task using a computer.

The **Part B** Set Task is undertaken in a single session of 1 hour 30 minutes in a timetabled period. In order to enable learners to have access to computer resources, a period of one day is provided for centres to timetable the assessment.

Centres should schedule all learners in the same session if possible and must release **Part B** to individual learners only for their scheduled session.

Learner's work must be completed independently and authenticated before being submitted to Pearson by the teacher/tutor and/or invigilator.

Learners must not bring anything into the supervised environment or take anything out of it without your teacher/tutor and/or invigilator knowledge and approval.

Centres are responsible for putting in place appropriate checks to ensure that only permitted material is introduced into the supervised environment.

Maintaining security

- During supervised assessment periods, the assessment areas must be accessible only to the individual learners and to named members of staff.
- Learners can access their work only under supervision.
- Any work that learners produce under supervision must be kept securely.
- Any materials being used by learners must be collected in at the end and retained by the centre.
- Learner notes related to **Part A** must be checked to ensure length and contents comply with the requirements. Learner notes will be retained securely by the centre after **Part B** has been undertaken and may be requested by Pearson if there is suspected malpractice.

Outcomes for submission

Learners will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a barrister's letter for Activity 2
- a completed Declaration of Authenticity.

Instructions for Learners

Read the activities **and** the Set Task Information carefully.

You have a total of 1 hour 30 minutes in this session to complete the task.

You should use the notes you prepared during **Part A** to complete this Set Task.

Your notes must be your own work and will be retained by your centre until results are issued.

You will complete this Set Task under supervision and your work will be kept securely at all times.

You must work independently throughout the supervised assessment period and must not share your work with other learners.

You should complete **both** activities.

Outcomes for submission

You will need to submit three documents on completion of the supervised assessment period:

- a file note for Activity 1
- a barrister's letter for Activity 2
- a completed Declaration of Authenticity.

Your work must be word processed in size 12-point font.

Your prepared notes do not need to be submitted with the final outcomes to Pearson.

Set Task

You should complete **both** activities.

Using the information provided in the Set Task Information and your notes from **Part A**, complete the following activities.

Activity 1

You are a pupil barrister in Treskillard Chambers. Your pupil supervisor has passed you a case bundle relating to a personal injury case involving a professional bodybuilder, Adam Jones. He wants to bring a claim against Solar Bodyz, a tanning parlour.

You have been asked to prepare additional file notes to be included in the Client Advice File relating to Adam's case.

The file notes need to:

- show your understanding of the law relevant to the law of negligence
- show how the law of negligence applies to this case
- establish the likely outcome of the case.

(Total for Activity 1 = 30 marks)

Activity 2

Adam has been informed of the likely outcome of the case and he now wants further advice.

Prepare a barrister's letter that shows your understanding of:

- the likely damages Adam could expect if he is successful
- the ways in which the claim could be funded and alternative sources of advice
- the use of Alternate Dispute Resolution instead of using the appropriate civil court for Adam's case.

(Total for Activity 2 = 30 marks)

TOTAL FOR PAPER = 60 MARKS

Set Task Information

Adam, aged 20, is a professional bodybuilder. When Adam is preparing for a bodybuilding competition, he likes to get a suntan by using a tanning machine at his local tanning salon, Solar Bodyz.

Solar Bodyz has a policy of limiting the time spent in a single tanning session to one hour. It also has numerous signs warning clients about the correct use of the tanning machines.

Adam was a regular customer at Solar Bodyz. He knew all the equipment and how to use it properly. He arrived at Solar Bodyz for a tanning session he had booked and switched on the tanning machine as usual. After 30 minutes on the tanning machine Adam knew something was wrong because his skin felt much hotter than usual. He switched off the machine and found that he was covered in nasty chemical burns.

Solar Bodyz had not explained to customers that there is a small possibility that there can be an unusual chemical reaction between the ultraviolet light from a tanning machine and certain chemicals sometimes found in herbal bodybuilder lotions. Adam was wearing a herbal bodybuilder lotion intended to make his muscles look more defined.

Adam suffered such significant burns that he could not work for six months. His average earnings in the six months would have been £100,000. Now, Adam cannot work as a bodybuilder and he is unemployed.

Adam has also become very depressed due to self-esteem issues about how he now looks. As a result, he is on anti-depressants and rarely leaves the house.

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